

The opinion in support of the decision being entered today  
is not binding precedent of the Board.

Fled by: Trial Section Merits Panel  
Mail Stop INTERFERENCE  
Board of Patent Appeals and Interferences  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
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Paper No. ~~40~~ 26  
Entered: April 5, 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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MATTHEW T. SCHOLZ, MICHAEL D. DELMORE,  
and DANIEL W. DAVIS

Junior Party  
(Patent No. 5,342,291)<sup>1</sup>

v.

HORACE L. FREEMAN and HEE K. YOON

Senior Party  
(Application 08/335,981)<sup>2</sup>

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Patent Interference No. 105,458  
(Technology Center 3700)

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Before LEE, TORCZON and MOORE, Administrative Patent Judges.

LEE, Administrative Patent Judge.

**Judgment -- Order to Show Cause -- Bd. R. 202(d)**

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<sup>1</sup> Based on Application 07/751,725, filed August 29, 1991. The real party in interest is BSN Medical, Inc.

<sup>2</sup> Filed November 8, 1994. Accorded the benefit of Application 07/593,852, filed October 5, 1990. The real party in interest is BSN Medical, Inc.

1 Both junior party's involved patent and senior party's involved application have been  
2 assigned to BSN Medical, Inc. (Paper 37). The common assignee has elected the senior party  
3 applicant to prevail on priority (Paper 39). Accordingly, it is

4 **ORDERED** that judgment on priority as to the subject matter of Count 1 is herein  
5 entered against junior party MATTHEW T. SCHOLZ, MICHAEL D. DELMORE, and DANIEL  
6 W. DAVIS;

7 **FURTHER ORDERED** that junior party MATTHEW T. SCHOLZ, MICHAEL D.  
8 DELMORE, and DANIEL W. DAVIS is not entitled to claims 1-35 of its involved Patent No.  
9 5,342,291;

10 **FURTHER ORDERED** that if there is a settlement agreement, the parties should note  
11 the requirements of 35 U.S.C. § 135(c) and Bd. Rule 205; and

12 **FURTHER ORDERED** that a copy of this judgment be placed in the respective  
13 involved application or patent of the parties.

/ss/ Jameson Lee  
JAMESON LEE  
Administrative Patent Judge

/ss/ Richard Torczon  
RICHARD TORCZON  
Administrative Patent Judge

/ss/ James T. Moore  
JAMES T. MOORE  
Administrative Patent Judge

Interference No. 105,458  
Scholz v. Freeman

By Electronic Transmission:

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